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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/542,139	04/04/2000	Satoru Yukie	50 P 3859.02	6059
7590	11/17/2004		EXAMINER	
John L Rogitz Rogitz & Associates 750 B Street Suite 3120 San Diego, CA 92101			POINVIL, FRANTZY	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/542,139 Examiner Frantzy Poinvil	YUKIE ET AL. Art Unit 3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 August 2003.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5,8,10,12-17,22,24,26 and 29-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5,8,10,12-17,22,24,26 and 29-35 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 8/6/2003, PROSECUTION IS HEREBY REOPENED.

The Examiner has found new prior art. The Examiner is obliged to apply the newly found prior art. Thus, the finality of the prior Office action has been withdrawn and a new rejection follows. The Examiner regrets the delayed process of the application. Accordingly, claims 1-35 remain pending in the application.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8, 10, 12-17, 22, 24, 26, 29-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Hylton et al. (US Patent No. 5,708,961).

Hylton et al disclose all the claimed limitation, particularly, Hylton et al disclose a wireless on premises video distribution using digital multiplexing. Hylton et al disclose:

“The illustrated network also offers pay per view services through the ATM broadcast program channels 318. A user selects a pay per view event by operating the terminal 100a. The terminal 100a transmits a purchase message upstream through the Loop Transport Interface 300 to the level 1 gateway 411. If the authorization data in the subscriber's profile in the level 1 gateway 411 indicates that the terminal identification is valid and the subscriber is authorized to purchase such events, the level 1 gateway instructs the Access Subnetwork Controller 417 to authorize reception. If decryption is required, the Access Subnetwork Controller instructs the ACC 4000 331 to provide a decryption key to the NIM. In response to an appropriate message from the level 1 gateway 411, the terminal 100a decodes the pay per view event in essentially the same manner as for other premium services carried on the ATM broadcast channels 318, as outlined above. Similar procedures are used to authorize reception of pay per view events by a set-top terminal 100 serviced through shared receiving system 10.sub.1. “.

“The operations of each HDT 530 are controlled by data tables stored within the HDT. The video information providers (VIP's) provision various services for their subscribers by establishing appropriate mapping and profile data in the tables in the HDT's 530. The VIPs, however, do not have direct access to the data tables within the HDTs. Instead, the VIPs access the VAM 542 through a personal computer interface 544 and the X.25 data communication network 546. The VIPs 510 provide provisioning data through the operations and support system

(OSS) 544 to the VAM 542, and the VAM 542 periodically downloads that data to the appropriate HDTs 530."

The content is in digitized format. Accounting data is generated, and information data are retrieved based on a profile of a subscriber for transmission to a subscriber's terminal.

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (703) 305-9779. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP  
November 12, 2004

  
FRANTZY POINVIL  
PRIMARY EXAMINER

Att 3628